

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

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UNITED STATES OF AMERICA *
v. * CRIMINAL ACTION
* No. 19-mj-06087-MPK-13, 14, 16
*
ELIZABETH HENRIQUEZ, *
MANUEL HENRIQUEZ, and *
FELICITY HUFFMAN *
Defendants *
* * * * *

BEFORE THE HONORABLE M. PAGE KELLEY
UNITED STATES MAGISTRATE JUDGE
INITIAL APPEARANCE
April 3, 2019

Courtroom No. 18
1 Courthouse Way
Boston, Massachusetts 02210

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1 APPEARANCES:

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6 America

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24 Massachusetts 02210, on behalf of Homayoun Zadeh
25

P R O C E E D I N G S

E X C E R P T

* * * * *

THE CLERK: All rise.

(Whereupon, the Court entered the courtroom.)

THE CLERK: Today is Wednesday, April 3, 2019, and we are on the record in Magistrate Case No. 19-6087, the United States of America versus John Wilson and Homayoun Zadeh, the Honorable M. Page Kelley presiding.

Counsel, please identify yourselves for the record.

MR. ROSEN: Good afternoon, your Honor. Eric Rosen for the government.

THE COURT: Good afternoon.

MR. O'CONNELL: Good afternoon, your Honor. Justin O'Connell for the government.

THE COURT: Good afternoon.

MS. WRIGHT: And Leslie Wright for the government, your Honor.

THE COURT: Good afternoon.

MR. KENDALL: Good afternoon, your Honor. Mike Kendall and Yakov Malkiel for John Wilson, and we thank the Court for the schedule to deal with our trial disruption.

THE COURT: You're welcome.

Good afternoon, Mr. Wilson.

MS. MINER: Good afternoon, your Honor. Tracy

1 Miner for Mr. Zadeh, and I join in the thanks.

2 THE COURT: Thank you very much.

3 Good afternoon, Mr. Zadeh.

4 DEFENDANT ZADEH: Good afternoon.

5 THE COURT: So, I just want to address those who
6 are here for their initial appearance today, and I want to
7 make a few general announcements and just explain how we are
8 going to proceed here this afternoon.

9 So, the rules of criminal procedure require me to go
10 through a certain colloquy with a person at their initial
11 appearance, and we can streamline things quite a bit here
12 today if everyone will just listen to what I say to
13 Mr. Wilson; and then I can just ask you, when it is your
14 turn, whether you heard what I said and understand the
15 various things on the list that I have to go through.

16 Specifically, I need to make sure everyone understands
17 their right to remain silent, that they heard the government
18 state the charges and the maximum penalties.

19 I need to make sure you understand the charges against
20 you.

21 I need to know what you plan to do regarding your right
22 to have a preliminary hearing, and I don't know if everyone
23 has seen the form. If you are going to waive it, you need
24 to sign a form, and we have those on the tables here.

25 And I'm going to go through the conditions of release

1 for each person.

2 So, with regard to the bonds, I am just going to leave
3 the bonds as they were in the district in which you got
4 released originally. I am happy to hear argument on that,
5 but otherwise the bond will just remain the same. It will
6 be transferred here, and you need not do anything about
7 that.

8 I just want to say a few general things about the
9 conditions. I am trying to give everyone an individualized
10 look with regard to your conditions, but, at the same time,
11 I am trying to be fair and impose the same burdens on
12 everyone.

13 And so I think everyone knows that I am not inclined to
14 allow personal international travel. If you want me to
15 consider an exception to that, I am happy to do that. You
16 can file a motion, but, in general, I am discouraging that.

17 With regard to business travel, I really expect that
18 business travel should be for a significant purpose and
19 necessary to the person's livelihood. So I would just ask
20 you to be choosy about the business travel that you request.

21 I am not going to mention international travel on each
22 person's Conditions of Release, but the process will be that
23 you will file a motion for business travel, and you need to
24 consult with Probation and the government first. And then
25 you will return -- if the motion is granted, you'll collect

1 your passport from Probation prior to the travel and return
2 it afterward, and I am really asking that you try to keep
3 those requests to a minimum.

4 With regard to travel within the United States, I am
5 going to let each person just work out the terms of that
6 with their pretrial release officer. So if your officer
7 wants you to tell them in so many days in advance and give
8 them an itinerary, et cetera, you can just work that out
9 with your individual person. And if that proves to be
10 troublesome and you're having disagreements about that, you
11 can just talk to your lawyer and bring it to the Court.

12 I am going to ask everyone not to have firearms in
13 their homes, and the Condition will state that you are not
14 to possess a firearm. And what I am asking -- I know many
15 people do have firearms -- that you just get them out of
16 your house, because if you are going to be supervised by
17 Pretrial Services, there should not be firearms in your
18 house when they are coming to your house. And so for the
19 pendency of the case just put the firearms somewhere else,
20 and give your Pretrial Services officer some kind of
21 validation that you did that.

22 One of the conditions is that you do not violate any
23 federal, state, or local law while on release, and,
24 typically, there is a box on the Conditions for not
25 possessing any narcotic drugs illegally. And I have not

1 been checking that off, because I do not think it is
2 necessary because I think it is covered under the admonition
3 that you not commit any further crimes. But, just for
4 everyone, you are not to possess any narcotic drugs unless
5 they are prescribed by a doctor.

6 And, finally -- and I am happy to hear the government's
7 argument on this -- I have been imposing a condition that
8 people are not to speak or have direct or indirect contact
9 with victims or witnesses in the case and co-defendants
10 except in the presence of counsel. And one of the
11 conditions I had imposed earlier on other people was that
12 that included -- they could have contact with family members
13 but not discuss the case except in the presence of counsel.
14 And I have rethought that, and I am not inclined to not
15 allow family members to discuss the case.

16 I just do not think that is realistic, and I do not
17 think it is good for parents not to be able to talk to their
18 children, for example, except in the presence of their
19 lawyer about the case.

20 So I am not going to impose that, and for people who
21 had that imposed earlier, I am going to revisit that.

22 I am happy to hear you, Mr. Rosen.

23 MR. ROSEN: Just -- I don't oppose -- we don't
24 oppose a general, you know, nonprohibition on discussing of
25 the case in terms of proceedings and what's going on and

1 where they are in the case and that type of thing.

2 I do think, though, it would be problematic to -- for a
3 father or a mother to discuss the factual events that went
4 into making the case, for example, what they knew and sort
5 of shaping of various testimony. Because they are --
6 technically, children are witnesses to these events. They
7 all have various levels of knowledge.

8 So I would ask that any discussions about the actual
9 facts as they occurred at that time be limited to with their
10 counsel.

11 MR. KENDALL: Your Honor, if I may address that?

12 THE COURT: Yes.

13 MR. KENDALL: We certainly understand and don't
14 need to be instructed or admonished about rules of integrity
15 of witnesses.

16 He's a father. He's got a son enrolled in a
17 university. We may need to deal with things with the
18 university or with the son's education. To tell the father
19 that I have to be present for every discussion with his son
20 about his education, I think, is unrealistic.

21 We understand the obligation of not, you know,
22 affecting somebody and their integrity as a witness, but a
23 father has to advise his son, and I'd ask that there not be
24 any specific rules restricting that.

25 THE COURT: Okay.

1 Yes, Mr. Miner?

2 MS. MINER: Your Honor, I would join in that. I
3 think it's unrealistic, especially when you're talking about
4 college kids. You can't control what they say. You can't.
5 Obviously, it's a family issue, and I don't know how you
6 would even monitor it, to tell you the truth. So I think
7 that family members should be excluded.

8 THE COURT: Okay.

9 I hear you, Mr. Rosen, and I understand why you are
10 saying that, and I do not think it is an outlandish
11 requirement, but I do think it is just unmanageable. And on
12 some level I just do not think it is right to impose that
13 condition.

14 I would just admonish everyone to talk to your
15 lawyer -- if you are involved in this case, to talk to your
16 lawyer about obstruction of justice because that -- you
17 don't want to get in trouble for trying to influence
18 someone's testimony. And also, if a child ever was a
19 witness in the case, they could certainly be asked what they
20 had discussed, and you just want to be careful about that.
21 So I would just ask you to please discuss that with your
22 lawyer.

23 Okay. So after I finish with each person, the people
24 who are sitting here in front of the bar, I am going to just
25 give them a minute to look at their Conditions and sign

1 them, and then the clients need to go down to the Probation
2 Office and meet with a probation officer. And also we'll
3 need to have the signed Preliminary Hearing Waiver Form, if
4 you have that.

5 And, finally, before we get started, I would just like
6 to kind of warn everyone that the microphones are live, and
7 they don't necessarily amplify your voice, but they are
8 picking up what you're saying. So if a lawyer and their
9 client are talking in the proximity of one of those
10 microphones, it can be streamed to another courtroom or
11 otherwise picked up. So you will want to just reach down
12 and press the tab and make sure that green light goes off if
13 you're talking privately.

14 So, Mr. Wilson, I am going to address my comments to
15 you.

16 First of all, you have a right to remain silent.
17 Anything you say can be used against you. If you decide to
18 answer questions or make a statement, you can stop talking
19 at any time if you change your mind, and you also have the
20 right to have a lawyer with you if you decide to answers
21 questions or make a statement.

22 Do you understand your right to remain silent?

23 DEFENDANT WILSON: Yes, your Honor.

24 THE COURT: I am going to ask the government to
25 state the charges and the maximum possibly penalties.

1 MR. ROSEN: There is only one charge for all the
2 defendants present here, except for the Colburns, who will
3 be arraigned later, but it's a one-count conspiracy to
4 commit mail fraud and honest services mail fraud; a maximum
5 penalty of the 20 years in prison; supervised release for
6 three years; a fine of \$250,000, or twice the gross gain or
7 loss, whichever is more; a special assessment of \$100 per
8 count, the one count here; restitution and forfeiture, if
9 there's any applicable, at a later date.

10 (Whereupon, the Court conducted inquiry of
11 co-defendants.)

12 THE CLERK: Elizabeth Henriquez, Manuel Henriquez,
13 Felicity Huffman, and counsel come up to the tables.

14 (Pause in proceedings.)

15 THE CLERK: Would Counsel please identify
16 themselves for the record.

17 MR. BROWN: Good afternoon, your Honor. Walter
18 Brown on behalf of Manuel Henriquez.

19 MS. HAAG: And Melinda Haag, also on behalf of
20 Manuel Henriquez, your Honor.

21 THE COURT: Good afternoon.

22 MR. KATZ: Good afternoon, your Honor. Aaron Katz
23 on behalf of Elizabeth Henriquez.

24 THE COURT: Good afternoon.

25 MR. MURPHY: Good afternoon, your Honor. Martin

1 Murphy on behalf of Ms. Huffman.

2 MS. AMRHEIN: Good afternoon, your Honor. Julia
3 Amrhein, also on behalf of Ms. Huffman.

4 THE COURT: Good afternoon.

5 Mrs. Henriquez, did you hear me explain your right to
6 remain silent, and do you understand that right?

7 DEFENDANT ELIZABETH HENRIQUEZ: Yes, I do.

8 THE COURT: Do you understand the charges against
9 you?

10 DEFENDANT ELIZABETH HENRIQUEZ: Yes, I do.

11 THE COURT: You heard the government state the
12 maximum possible penalties?

13 DEFENDANT ELIZABETH HENRIQUEZ: Yes.

14 THE COURT: And you understand that you have the
15 right to a preliminary hearing, and what would you like to
16 do with regard to that?

17 MR. KATZ: We've executed the waiver, your Honor.

18 THE COURT: Okay. So you have the right to the
19 hearing, but you don't wish to have it?

20 DEFENDANT ELIZABETH HENRIQUEZ: Yes, your Honor.

21 THE COURT: So I will find that your waiver is
22 knowing and voluntary.

23 And with regard to the conditions of your release, they
24 are the same as I read out for Mr. Wilson. Any questions
25 about that?

1 DEFENDANT ELIZABETH HENRIQUEZ: No, your Honor.

2 THE COURT: Okay.

3 Anything from the government?

4 MR. ROSEN: No, your Honor.

5 THE COURT: Probation?

6 PROBATION OFFICER: Your Honor, I just want to make
7 it clear that the Henriquezes have ten firearms, and that
8 they have to be removed from the home, where they previously
9 had a passcode change, a friend's in possession of the
10 passcode, and that your Honor wishes that they be completely
11 removed from the home.

12 THE COURT: Okay.

13 So, you will need to have the firearms out of your
14 primary residence, okay?

15 MS. HAAG: Your Honor, we're happy to work with law
16 enforcement. In my experience, it can be somewhat
17 complicated to transport weapons like that, so we'll
18 certainly talk with Pretrial Services and work with law
19 enforcement to accomplish that.

20 THE COURT: Okay. And I'm not going to set any
21 deadlines for that, but you should talk to the Pretrial
22 Services officer where you live, and whatever conditions
23 they set, the time line, et cetera, you need to abide by
24 that, okay?

25 DEFENDANT ELIZABETH HENRIQUEZ: Yes, your Honor.

1 THE COURT: Mr. Henriquez, you heard me explain
2 your right to remain silent?

3 DEFENDANT MANUEL HENRIQUEZ: Yes, your Honor.

4 THE COURT: You understand that right?

5 DEFENDANT MANUEL HENRIQUEZ: Yes, your Honor.

6 THE COURT: And you have been over the charges with
7 your lawyer and understand the charges against you?

8 DEFENDANT MANUEL HENRIQUEZ: Yes, your Honor.

9 THE COURT: And you heard the government state the
10 maximum possible penalty?

11 DEFENDANT MANUEL HENRIQUEZ: Yes, your Honor.

12 THE COURT: And you also have the right to a
13 preliminary hearing, and what would you like to do about
14 that?

15 MS. HAAG: We have executed the waiver as well.

16 THE COURT: Okay.

17 So you have the right to the hearing, but you have
18 chosen not to have it?

19 DEFENDANT MANUEL HENRIQUEZ: Yes, your Honor.

20 THE COURT: So I'll find that your waiver is
21 knowing and voluntary.

22 And your conditions are the same as well. Any
23 questions about that?

24 DEFENDANT MANUEL HENRIQUEZ: No, your Honor.

25 THE COURT: The government?

1 MR. ROSEN: Nothing, your Honor.

2 THE COURT: And, Probation, other than the
3 firearms?

4 PROBATION OFFICER: No.

5 THE COURT: Okay.

6 So, Ms. Huffman, you heard me explain your right to
7 remain silent?

8 DEFENDANT HUFFMAN: Yes, your Honor.

9 THE COURT: And you understand that?

10 DEFENDANT HUFFMAN: Yes.

11 THE COURT: And you understand the charges against
12 you?

13 DEFENDANT HUFFMAN: Yes, your Honor.

14 THE COURT: And you heard the government state the
15 charges and the maximum possible penalties?

16 DEFENDANT HUFFMAN: Yes, your Honor.

17 THE COURT: And what is your wish with regard to
18 your preliminary hearing?

19 MR. MURPHY: Your Honor, I have spoken about it
20 with Ms. Huffman, and she and I have each executed the
21 waiver.

22 THE COURT: Thank you, Mr. Murphy.

23 So you do not wish to have the hearing, Ms. Huffman?

24 DEFENDANT HUFFMAN: No, your Honor.

25 THE COURT: So I will find that your waiver is

1 knowing and voluntary.

2 You have the same conditions.

3 Anything to say about that?

4 MR. O'CONNELL: No, your Honor.

5 THE COURT: Mr. Murphy?

6 MR. MURPHY: No, your Honor. Thank you.

7 THE COURT: Nothing from Probation?

8 PROBATION OFFICER: No, your Honor. Thank you.

9 THE COURT: All right. So, we'll just print those
10 out. You can sign them and go downstairs.

11 (Pause in proceedings.)

12 MR. MURPHY: Thank you, your Honor.

13 MR. KATZ: Thank you.

14 MR. BROWN: Thank you, your Honor.

15 ...end of excerpt.
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C E R T I F I C A T E

I, James P. Gibbons, Official Court Reporter for the United States District Court for the District of Massachusetts, do hereby certify that the foregoing pages are a true and accurate transcription of my shorthand notes taken in the aforementioned matter to the best of my skill and ability.

/s/James P. Gibbons
James P. Gibbons

April 10, 2019

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